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Contra Costa County Pesticide Regulatory Program 2006/2007 Performance Evaluation Report

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Performance Evaluation of Contra Costa County Agricultural Commissioner's Pesticide Use Enforcement Program

This report provides a performance evaluation of Contra Costa County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for the fiscal year (FY) 2006/2007. The assessment evaluates the performance of goals identified in the CAC's Enforcement Work Plan (EWP) as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Standards Compendium.

I. Summary Report of Core Program Elements

A) Restricted Materials Permitting:

The restricted materials permitting program element was found to meet DPR standards and EWP goals.

B) Compliance Monitoring:

The compliance monitoring program element was found to meet DPR standards and EWP goals.

C) Enforcement Response:

The enforcement response program element was found to meet DPR standards and EWP goals.

Summary Statement:

Although deficiencies have been identified in the Contra Costa CAC's pesticide use program, the program is currently assessed as effective.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting:

1) Permit Issuance

The Contra Costa CAC permit issuance procedures and performance were evaluated through observation and interviews of relevant staff and found to conform to DPR standards and expectations. The biologists that issue permits all possess Pesticide Regulation and Investigation and Environmental Monitoring licenses. The DPR evaluation determined that permits are:

- Issued only to qualified applicants;
- Signed by authorized persons;
- Issued for time periods allowed by law; and
- Permit amendments follow approved procedures.

The Contra Costa CAC only issues restricted materials permits for a one-year period. Approximately 307 restricted materials permits, 33 non-agricultural permits and 59 Operator I.D.s were issued in FY 2006/2007. The PUE Deputy gives annual training on the policies and procedures used to issue permits and

properly identify sites.

2) Site Evaluation

The Contra Costa CAC site evaluation procedures were evaluated through observation, record review, and interviews of relevant staff and found to conform to DPR standards and expectations. The CAC reviewed approximately 290 Notices of Intent (NOI) in FY 2006/2007. The permits:

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. The program reviews all NOIs in a timely manner and adequately monitored agricultural and nonagricultural permits utilizing pre-application site evaluations and use monitoring inspections.

NOIs are received by fax machine, telephone, and answering machine. Certified pesticide enforcement staff reviews the NOIs and compares them to the permits in the computer. One biologist is scheduled to remain in the main office each day and is responsible to review the days NOIs and issue permits. Each biologist in the field has a cellular telephone and is often contacted to check sites in sensitive areas when NOIs are submitted.

B) Compliance Monitoring:

1) Inspections

The Contra Costa CAC's inspection procedures and performance were evaluated through DPR oversight inspections and record review and were found to conform to DPR standards and expectations.

- Biologists performing inspections possess Pesticide Regulation and Investigation and Environmental Monitoring licenses.
- Inspections are performed according to the inspection strategy documented in the CAC's EWP.
- Inspections are performed according to DPR policies and procedures and inspection reports are complete and comprehensive. The inspections adequately provide the information necessary to successfully prosecute violations.
- The biologists also review the compliance history for the firm/person inspected and meet with the Deputy and compliance committee before issuing a violation notice. The Enforcement Action Team is responsible for approving Decision reports, violation notices, case files, and Notices of Proposed Action (NOPAs).
- The county needs to improve on setting up times when the DPR Enforcement Branch Liaison (EBL) can meet with biologists to conduct oversight inspections.

Inspections performed by the CAC were found to:

- Adequately document non-compliances/violations; and
- Include appropriate follow-up inspections and procedures.

2) Investigations

The Contra Costa CAC investigation procedures and performance were evaluated through observation, record review, and interviews of relevant staff and found to conform to DPR standards and expectations.

- The CAC investigates all complaints and complete their reports in a timely manner. The CAC refers and/or notifies DPR and other agencies as required.
- All of the staff of the Contra Costa CAC's office that conduct pesticide enforcement investigations are designated as Agricultural Biologists.
- All PUE Biologists attended the Pesticide Episode Investigation Training in 2006. Training on investigative sampling is provided to the staff on an annual basis.
- Investigations are thorough and complete and are submitted on approved forms and in the approved format. The investigations document violations and the CAC collects evidence according to DPR standards. The investigations adequately provide the information necessary to successfully prosecute violations.

Investigations performed by the CAC were found to:

- Adequately address label, law and regulatory requirements, if applicable; and
- Include interviews of employers and employees as appropriate.

C) Enforcement Response:

Contra Costa County Biologists have been sending decision reports (DRs) to DPR for review. DPR has reviewed the DRs and sent them back with comments from the EBL and Supervisor prior to their re-issuance to DPR. Most of the DRs are well written; however, biologists need some assistance in determining what appropriate category (A, B or C) the non-compliances belong in. Biologists also need some practice in writing the details of the inspections and explanations associated with justification for their enforcement/compliance decisions.

III. Corrective Actions Previously Identified

- The Contra Costa CAC needs to critically self-evaluate the three core EWP programs to determine strengths, areas needing improvement and they need to develop a plan for improvement within each core program.
- There has been no increase in the opportunity for the EBL to conduct oversight inspections performed with the county in the Knightsen area, as stated in their FY 2005/2006 EWP.
- The Enforcement Response Regulations (ERRs) have only been partially implemented and were not mentioned in the 2005/2006 EWP. Decision Reports are received late and were still outstanding in association with

non-compliances discovered during FY 2006-2007 and no tracking system has been set up for follow-up or enforcement/compliance action tracking.

IV. Recommended Corrective Actions

DPR and the staff person responsible for the county PUE program have jointly identified the following corrective actions:

Restricted Materials Permitting:

- The CAC needs to implement changes to the EWP associated with restricted material permits (RMPs) to address self evaluation requirements discussed with DPR during the evaluation process. The areas requiring attention are associated with addressing areas that need improvement in their operations and an associated plan for attaining improvement in their programs.

Compliance Monitoring Inspections:

- The CAC needs to implement changes to the EWP associated with Compliance Monitoring to address self evaluation requirements discussed with DPR during the evaluation process. The areas requiring attention are associated with addressing areas that need improvement in their operations and an associated plan for attaining improvement in their programs.
- The county needs to improve on setting up times when the DPR EBL can meet with biologists in the Knightsen office to conduct oversight inspections on agricultural operations.

Investigations:

- The CAC, with assistance from DPR, will provide training in investigative techniques and evidence collection.

Enforcement Response:

- The CAC needs to integrate the ERR into the enforcement/compliance actions discussed in the EWP. The PUE Deputy has stated that he will work with his biologists to implement the ERR and ensure that his biologists follow ERR guidelines when making decisions on appropriate enforcement/compliance actions to be taken and conduct these decisions in a timely manner.
- A tracking system should be set up for follow-up or enforcement/compliance action tracking.
- The CAC needs to implement changes to the EWP associated with Enforcement Response to address self evaluation requirements discussed with DPR during the evaluation process. The areas requiring attention are associated with addressing areas that need improvement in their operations and an associated plan for attaining improvement in their programs.

V. Non-Core and Desirable Activities

1. The county conducts Pesticide Handler and Fieldworker Training Sessions utilizing the department's two Spanish-speaking staff members. They conduct several training classes to agricultural workers in both Knightsen and Richmond offices and train between 300 and 400 pesticide handlers and

fieldworkers each year. These training classes are ongoing multi-media presentations that are updated and presented annually. The county will continue conducting these outreach activities with the hope that the information will lessen the likelihood of non-compliances and worker health related incidents.

2. The county participates in the Contra Costa County Integrated Pest Management (IPM) Task Force, which meets on a bi-monthly basis. In addition to site visits and outreach activities, the task force tracks the internal pest control activities of the county and any outside vendors the county employs. An annual report is presented to the Board of Supervisors in December of each year. The ultimate goal of the IPM Task Force is to establish long-term suppression of pests and reduce the amount of pesticide risk to county employees. The county will continue to support this program.
3. The county conducts Continuing Education Class for Private Applicator Certificate holders each winter at the Knightsen branch office for growers who need to acquire continuing education hours for the renewal of their private applicator certificates. There are typically two classes given on evenings or weekends and those feature presentations by the CAC staff on regulatory issues. Guest speakers give updates on research being performed by the University of California Cooperative Extension and the classes provide an excellent forum for the discussion of new agricultural techniques that decrease pest pressure and reduce the need for pesticide applications. The county will continue to support this program.